

IN THE UNITED STATES DISTRICT COURT  
FOR NEBRASKA

TONIA ACKERMAN and DENNIS  
ACKERMAN,

Plaintiffs,

v.

U-PARK, INC.,

Defendant.

CASE NO. 8:17-CV-209

**DEFENDANT'S *DAUBERT***

**MOTION IN LIMINE**

**AND REQUEST FOR HEARING**

COMES NOW the Defendant U-Park, Inc., by and through its attorneys of record, and hereby submits the following Motion in Limine by which the Defendant requests an order prohibiting the testimony of Plaintiffs' expert witness Philip Wayne with respect to those opinions stated in his expert report, which is attached hereto as Exhibit A. Also attached is the deposition transcript of Mr. Wayne, which provides factual context for the motion.

As discussed in the accompanying brief, Mr. Wayne's testimony should be excluded pursuant to standards set out in Fed. R. Evid. 702 and *Daubert v. Merrell-Dow Pharmaceuticals*, 509 U.S. 579 (1993), because his opinions are legally irrelevant and admittedly not based on evidence of necessary facts to support them.

Defendant hereby requests that the Court set a hearing on said Motion.

DATED this 14<sup>th</sup> day of December 2018.

U-PARK, INC, Defendant

By: /s/Michael T. Gibbons  
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ATTORNEYS FOR DEFENDANT

**CERTIFICATE OF SERVICE**

It is hereby certified that a copy of the above and foregoing document was mailed by regular U.S. Mail, postage pre-paid, to the below-listed attorney of record on the 14<sup>th</sup> day of December 2018:

Guy R. Cook  
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/s/Michael T. Gibbons